



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

January 26, 2011

Scott White
Washington State Department of Transportation
600 Stewart St, Ste 520
Seattle, WA 98101

Re: City of Aberdeen Local Permit #2010- 207
Scott White - Applicant
Approved Shoreline Variance Permit #77
Filed Shoreline Substantial Development Permit #543

Dear Mr. White:

On January 24, 2011 the Department of Ecology (Ecology) received the City of Aberdeen decisions on your Shoreline Substantial Development and Variance Permits for the development of a casting basin for the construction of the floating bridge pontoons within the shoreline jurisdiction of Grays Harbor.

Substantial Development Permit (SDP):

By law, local governments must review all SDPs for compliance with:

- The Shoreline Management Act (Chapter 90.58 RCW)
- Ecology's Substantial Development Permit approval criteria (Chapter 173-27-150 WAC)
- The Aberdeen Local Shoreline Master Program

Local governments, after reviewing SDPs for compliance, are required to submit them to Ecology. Your approved SDP has been received by Ecology.

Variance Permit:

By law, Ecology must review Variance Permits for compliance with:

- The Shoreline Management Act (Chapter 90.58 RCW)
- Ecology's Variance Permit approval criteria (Chapter 173-27-170 WAC)
- The Aberdeen Local Shoreline Master Program

After reviewing Variance Permits for compliance, Ecology must decide whether to approve, approve with conditions, or disapprove them.

Our Decision:

Ecology approves your Variance Permit provided your project complies with the conditions required by the City of Aberdeen. **Please note, however, that other federal, state, and local permits may be required in addition to this shoreline permit.**

What Happens Next?

Before you begin activities authorized by this permit, the law requires you to wait at least 21 days from



the "date of receipt" - the date you receive this letter or the date Aberdeen receives their copy of this letter. Date of receipt is defined in RCW 43.21B.001 as follows:

(1) "Business days" means Monday through Friday exclusive of any state or federal holiday.

(2) "Date of receipt" means:

(a) Five business days after the date of mailing; or

(b) The date of actual receipt, when the actual receipt date can be proven by a preponderance of the evidence. The recipient's sworn affidavit or declaration indicating the date of receipt, which is unchallenged by the agency, shall constitute sufficient evidence of actual receipt. The date of actual receipt, however, may not exceed forty-five days from the date of mailing.

This waiting period allows anyone (including you) who disagrees with any aspect of this permit, to appeal the decision to the state Shorelines Hearings Board. You must wait for the conclusion of an appeal before you can begin the activities authorized by this permit.

The Shorelines Hearings Board will notify you by letter if they receive an appeal. We recommend you contact the Shorelines Hearings Board before you begin permit activities to ensure no appeal has been received. They can be reached at (360) 664-9160 or <http://www.cho.wa.gov>.

If you want to appeal this decision, you can find appeal instructions (Chapter 461-08 WAC) at the Shorelines Hearings Board website above. They are also posted on the website of the Washington State Legislature at: <http://apps.leg.wa.gov/wac>.

If you have any questions, please contact Rick Mraz at (360) 407-6221.

Sincerely,



Perry J Lund, Unit Supervisor
Shorelands and Environmental Assistance Program

BY CERTIFIED MAIL: 7009 3410 0000 1272 2734

Enclosure

PJL:RM:th

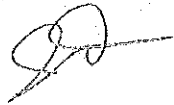
cc: Lisa Scott, City of Aberdeen (By Certified Mail: 7009 3410 0000 1272 2710)

PW / 9.12 Shoreline Permit

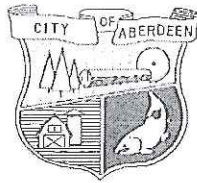
520 PCP Team

JAN 27 2011

- Confirm in P.W.
- File in Shoreline Permit



City of
Aberdeen



Community Development Department
200 East Market Street • Aberdeen, WA 98520-5242
PHONE (360) 537-3238 • EMAIL lscott@aberdeeninfor.com
FAX (360) 537-3350 • TDD (360) 533-6668

Shoreline Management Act Permit Date Sheet and Transmittal Letter

From: Community Development Department
City of Aberdeen
200 East Market Street
Aberdeen, WA 98520

To: DOE Shorelands Assistance Program
State of Washington
P.O. Box 47775
Olympia, WA 98504-7775

Date of Transmittal: January 19, 2011

Date of Receipt:

Type of Permit: Substantial Development ☒; Conditional Use ☐; Variance ☒; Revision ☐; Other ☐

Local Government Decision: Approval ☒; Conditional Approval ☐; Denial ☐.

Applicant Information:

Applicant's Representative:

Name: Washington State Department
of Transportation

Address: 600 Stewart Street, Suite 520
Seattle, WA 98101

Name: Scott White

Address: 600 Stewart Street, Suite 520
Seattle, WA 98101

Phone(s): (206) 770-3570

Phone(s): (206) 770-3632

Is the applicant the property owner? ☒ Yes; ☐ No.

Location of the Property: The project is located in the northwest ¼ of Section 17, Township 17N, Range 9W, in Aberdeen, Grays Harbor County, Washington and bears the parcel numbers 029902000101, 029901800406 and 029901800401;

Waterbody Name: Chehalis River


Shoreline of Statewide Significance: ☒ Yes; ☐ No.

Environmental Designation: Urban Development

Description of the Project: The development of a casting basin for the construction of the floating bridge pontoons.

Notice of Application Date: November 15, 2010

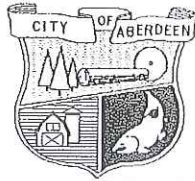
Final Decision Date: January 17, 2011

By:  Lisa Scott, Community Development Director

Phone: (360) 537-3238



City of
Aberdeen



Community Development Department
200 East Market Street • Aberdeen, WA 98520-5242
PHONE (360) 537-3238 • EMAIL lscott@aberndeeninfo.com
FAX (360) 537-3350 • TDD (360) 533-6668

SHORELINE MANAGEMENT ACT OF 1971

PERMIT FOR SHORELINE MANAGEMENT SHORELINE SUBSTANTIAL DEVELOPMENT

Application Number: 207
Administering Agency: City of Aberdeen
Date Received: November 15, 2010
Date Approved: January 17, 2011
Type of Action: Shoreline Substantial Development with Variance

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Pursuant to Aberdeen Municipal Code (AMC) Chapter 16.20 and Revised Code of Washington (RCW) Chapter 90.58, a permit is hereby granted to:

**Washington State Department of Transportation
600 Stewart Street, Suite 520
Seattle, WA 98101**

to undertake the following development:

The development of a casting basin for the construction of the floating bridge pontoons;
upon the following property:

This project is located in the Northwest ¼ of Section 17, Township 17N, Range 9W, in Aberdeen, Grays Harbor County, Washington and bears the parcel numbers: 029902000101, 029901800406 and 029901800401;

within the shorelines and associated wetlands of:

The Chehalis River, a Shoreline of Statewide Significance.

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The following Shoreline Master Program provisions are applicable to this proposal: AMC Chapter 16.20.060 Siting Regulations, Chapter 16.20.070 Design Regulations, Chapter 16.20.080 Earth Changing regulations, Chapter 16.20.090 for Public Access, Chapter 16.20.100 Restoration, Chapter 16.20.110 Scenic Views and Vistas, Chapter 16.20.120 Valuable Site and Structure Protection Regulations, Chapter 16.20.140 Urban Regulations and Chapter 16.20.200 Variance. Additionally, Washington Administrative Code (WAC) Chapter 173-27-150 provides direction concerning the review criteria for substantial development permits and WAC 173-27-170 provides direction concerning the review criteria for Variance Permits. The Grays Harbor Estuary Management Plan as part of the Shoreline Master Program was also used in conjunction with this proposal.

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Findings and Conclusions

1. The application contains sufficient information for review by the City of Aberdeen and the Washington State Department of Ecology.
2. The project, should it receive the required shoreline development approvals, will comply with all applicable city, state and federal codes and plans governing construction activities within the shoreline.
3. The proposal complies with the provisions of AMC Chapter 16.20.060 for *siting regulations*. The construction of the casting basin facility and pontoons are considered a permitted shoreline use. Because the need to transport the pontoons require water transportation, it is necessary to locate the facility on the shoreline. WSDOT went through the required site selection process and determined that this particular site on this shoreline was the best location with the least amount of environmental impacts.
4. The proposal does not conflict with the provisions of AMC Chapter 16.20.070 for *design regulations*, as parking, accessory buildings and storage areas are located as far away from the shoreline as design and site constraints allow. Pilings will be placed in the water that could be considered as interfering with the passage of stream or floodwaters, but this action is specifically intended and authorized by the permit. The shoreline will be kept in its natural contour, shape and appearance other than a small portion that will be used for the launch channel. Water control devices, structures and dredging areas have been designed to minimize interference with navigation on the Chehalis River.
5. The proposal is consistent with the provisions of AMC Chapter 16.20.080 for *earthchanging regulations*, as the permit will be conditioned to include erosion and sediment control practices and all environmental precautions will be taken when dredging, removing fill and creating the berm on site.
6. The proposal is consistent with the provisions of AMC Chapter 16.20.090, *Public Access*. Public access will not be a required element for this project. The very nature of the project would create a public hazard. Less than ½ mile from the site is a public access area known as the 28th Street Boat Launch, which provides a viewing tower, public boat launch and temporary dock space.
7. The mitigation plan for this proposal complies with AMC Chapter 16.20.100 *Restoration*. After building all the pontoons planned for this project, WSDOT would retain ownership of the casting basin facility until it is determined whether the facility would be needed for construction of the additional pontoons needed as part of the proposed SR 520, I-5 to Medina: Bridge Replacement and HOV Project, which would require more pontoons than the proposed SR520 Pontoon Construction Project would provide. When the facility is no longer needed to build the Evergreen Point Bridge Pontoons, WSDOT might reopen the facility for currently unforeseen WSDOT project's, sell the property with the improvements or decommission the facility and restore the site to as close to its condition before

this project as possible before selling it. WSDOT has identified two points in time when a decision about the future use of the casting basin facility could potentially be made: 1) when the SR520 Pontoon Construction Project is completed, and 2) if and when the decision is made to use the facility to build pontoons for the proposed SR520, I-5 to Medina: Bridge Replacement and HOV Project, at the end of the pontoon construction for that project. Further use or decommission of the site would be a separate action that would require its own environmental process, permits, approval and consultation with agencies and interested tribes.

Because of the unknown future of the site and the potential for other pontoon projects though un-permitted, it would be unwise for the city to require complete restoration of the site at the completion of this first phase of the project. We concur with WSDOT'S conclusions regarding the future of the site and the city will agree to work with WSDOT to either, continue use of the site for pontoon construction, sell the site and improvements or restore the site.

8. The proposal is consistent with the provisions of AMC Chapter 16.20.110, *scenic views and vistas*. There are no adverse impacts to the scenic views and vistas. During construction of the casting basin heavy equipment and construction-related signage would be visible at and near the project site. During pontoon-building operations there would be low to no visual effects during daylight hours. Nighttime illumination on the facility would cause it to be visible from many locations in the area. Visibility of cranes and potentially the batch plant would be unavoidable for some residents in the hillside residential areas. These are typical views from this hillside residential area now. This site in particular, is shielded from other industrial sites and the few homes in the area. It is bordered by the Sewer Treatment Plant to the East of the site, the Port of Gray Harbor to the West of the site, Highway 105 to the South of the site and large trees, the railroad and warehouses to the North.
9. This proposal does not conflict with the provision of AMC Chapter 16.20.120, *valuable site and structure protection regulations*. Although the historical lumber mill and its various supporting structures were demolished in the 1960's, several of the more substantial foundations remain below the surface of the Aberdeen Log Yard site. Archaeological investigations uncovered the foundations of the boiler and engine rooms and the waste burner. However, WSDOT (on behalf of FHWA) has determined that this historic property is not eligible for the NRHP. FHWA and WSDOT submitted this determination to DAHP and received DAHP's concurrence on this finding. Two residential houses were evaluated as historic properties eligible for the NRHP because of their association with the development of residential architecture west of Aberdeen's central business district from the 1900's through the 1920's. They are located within the APE west of Aberdeen's central business district along the designated haul routes at 201 South Washington Street and 1101 West Wishkah Street.

10. This proposal is consistent with the provisions of AMC Chapter 16.20.130, *shoreline environment designation map-adoption of, regulation for*. This is an industrial site in an appropriate location.
11. The proposal is consistent with the provisions of AMC Chapter 16.20.140 for *urban environment regulations*. The SMP allows for water-related industries as a permitted use. The Industrial Zone in the AMC permits industrial activities. The GHEMP, Management Unit 15, Planning Area III indicates that this area represents the prime remaining area for large industrial expansion in immediate proximity to the navigation channel, land-based transportation facilities, other urban facilities and a local labor force. This planning area also notes that in the eastern portion of the planning area, which this property is located, the bankline will continue to be highly altered. This is the central area for major economic expansion in the Grays Harbor Region. As such, use of the land and water areas will be primarily for heavy industry directly related to the region's primary economy.
12. This proposal is consistent with AMC Chapter 16.20.150, *non-conformities*, as all structures and uses that will be associated with this site will be conforming.
13. The proposal is consistent with AMC Chapter 16.20.200. The applicant is applying for a Variance from the height limitation of 35 feet. The applicant is proposing to have four rail mounted tower cranes that range in various heights from 140 feet \pm to 270 feet \pm and used to move materials, the casting basin gate and the fish handling box around the site. It is understood that strict application of the shoreline regulations would cause an unnecessary hardship. The cranes are designed to work together at all different heights so that they can work at the same time and not interfere with each other. The height of the cranes is necessary because of the heavy loads and the layout of the site. In order for the cranes to function, they are designed at different heights and therefore need to run at heights that are outside of the code requirements of 35 feet in order to work. The proposed variance request would not be a grant of special privilege as other property owners in the area have exceeded the minimum heights in the shoreline. AGP, an adjacent tenant to the site, has structures currently under construction that will be over 300 feet in height, though outside of the shoreline, the tanks are visible from the site. The Port of Grays Harbor also has numerous structures and warehouses that are also above the 35 foot requirement of the shoreline. A hardship will be created by the failure to obtain the requested variance from the 35 foot height restriction, which would be attributable to the application of the city's SMP requirements and not as a result of unplanned action by the applicant. Should the variance not be granted, such a denial would significantly interfere with the reasonable use of this property, as defined in WAC Chapter 173-27-170 and what has already been established.
14. The issuance of this permit is consistent with the general purpose and intent of the Shoreline Master Program, the City's 1993 Zoning Ordinance and the City's 2001 Comprehensive Land use Plan. This project meets are the requirements of these

plans and ordinance's. It is an industrial use in a compatible area, it is a water-dependent use located on a shoreline that allows for the use and it meets the city's long range comprehensive plan, because the project is industrial in nature and follows the long range needs of the city.

15. The applicant has applied for a reasonable use exception to the City of Aberdeen's Critical Areas Ordinance. The application contains appropriate mitigation measures that make up for the disturbances to the wetland areas, geologically hazardous areas and fish and wildlife habitat conservations areas. Due to the location and the preexistence of the small wetlands across the site an appropriately sized industrial development could not be located on the site without impacting wetlands. Therefore strict protection of the wetlands in conformance with Chapter 14.100 would prohibit development of the site. Any industrial development would impact these wetlands due to their location and the size of the site. The proposed project has been designed to minimize impacts to wetlands and waterbodies around the edge of the site. Impacts to the interior site wetlands were unavoidable. 1.04 acres of Palustrine wetlands and 0.50 acres of Estuarine Wetlands were identified on site, of which only 1.10 acres are proposed to be filled for development. Approximately 2.87 acres of mudflats are proposed to be dredged to make room in the launch channel for pontoon movement to the shipping lane in the Chehalis River. These wetlands and mudflats are proposed to be mitigated through a separate shoreline permit action at Grays Harbor County. The proposed mitigation site is at Grass Creek and has been designed to meet all mitigation requirements for this project.

Impact to Critical Areas has been minimized to the maximum extent practicable and all remaining impacts to Critical Areas will be mitigated in conformance with the standards of the chapter. The project will be constructed to industry standards and all environmental impact including water quality will be compliant with regulatory standards. The project does not pose a threat to public health, safety or welfare. The project will mitigate for the loss of critical area functions and values as detailed in the Conceptual Wetland and Aquatic Resources Mitigation Report. The project will also have an impact to Fish and Wildlife Habitat Conservation Areas along the shoreline. This impact is allowed under AMC Chapter 14.100.530(k) for shoreline dependent uses. The proposed project, which has impacts to Habitat Areas, has been designed to minimize all unavoidable impacts. The project has also complied with the requirements of the Geological Hazards of the site, which include Liquefaction and Landslide areas and Seismic and Shaking potential. A Geotechnical Report was prepared for the site, which take into account and provide for these Geological Hazard Areas. Should the applicant receive the required shoreline development approvals for impacts to the environment, the applicant and the applicant's representative will comply with all applicable City, State and Federal codes and plans governing construction activities.

16. The proposal is consistent with the City's decision criteria set forth in both AMC Chapter 16.20.180 and WAC Chapter 173-27-150, with the public interest being served should the permit be issued as conditioned below.

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Development pursuant to this proposal shall be undertaken subject to the following terms and conditions:

1. All activity occurring in-water or near water shall comply with requirements as determined by the Department of Fish and Wildlife.
2. WSDOT and/or its contractor shall obtain all required permits from the Department of Natural Resources.
3. WSDOT and/or its contractor shall obtain all required permits from the U.S. Army Corps of Engineers.
4. WSDOT and/or its contractor shall obtain all required permits from the Department of Ecology.
5. All activities shall be performed in compliance with OSHA Standards.
6. WSDOT and/or its contractor shall ensure that the contractor receive all necessary construction permits from the City of Aberdeen.
7. WSDOT and/or its contractor shall ensure that all appropriate methods are in place to take care of all releases of oils, hydraulic fluids, fuels, other petroleum products, paints, solvents and other deleterious materials, spills are contained and removed in a manner that will prevent their discharge to waters and soils of the state. The cleanup of spills shall take precedence over other work.
8. WSDOT and/or its contractor will ensure that erosion control through the use of Best Management Practices as required to prevent side casting of fill material on to adjacent properties or into the water. All erosion and sediment control measures shall be in place prior to, during and after site improvements are completed or when control measures are no longer needed.
9. Equipment that enters waterways shall be maintained such that no visible sheen from petroleum projects appears within waterways. If a sheen appears around the equipment in the water, the equipment shall be contained within an oil boom and shall be

removed from the water, cleaned and/or maintained appropriately. If equipment leaks occur during work, WSDOT and/or its contractor shall ensure that the contractor shall see that the equipment is immediately removed from within the waterway to a location where pollutants cannot enter any waterway. The equipment shall not be allowed within the waterway until all leaks have been corrected and the equipment cleaned. Upland area where leaking equipment is stored is also cleaned/remediated immediately.

10. WSDOT and/or its contractor shall ensure that, during excavation of the mudflats, has equipment in place should any contaminated soils be released during the excavation and that proper disposal of the contaminated soils be followed.
11. Coverage under the National Pollution Discharge Elimination system (NPDES) and State Waste Discharge General Permit for Stormwater Discharges Associated with Construction Activities is required for construction sites which disturb an area of one acre or more and which have or will have a discharge or stormwater to surface water or a storm sewer.
12. The Variance for the height of the tower cranes will remain in place with this site, and not with just this project.
13. This permit shall be conditioned to meet all the mitigation requirements outlined in the final Record of Decision and specified in the permit application appendices.
14. Construction shall comply with the Record of Decision issued on January 10, 2011.
15. Substantial progress toward completion of this project shall be undertaken within 2 years of permit approval by the City of Aberdeen, with substantial progress including but not limited to the making of contracts, the signing of notice to proceed or the receipt of a City of Aberdeen Building Permit. The City of Aberdeen may authorize a single extension before the end of the time limit, with prior notice to parties of record and the Washington State Department of Ecology or its successor agency, for up to one year based on reasonable factors.
16. The Shoreline Substantial Development Permit with Variance shall terminate within 5 years after the approval of the permit by the City of Aberdeen, provided that the City may authorize a single extension before the end of the time limit, with prior notice

to parties of record and the Department of Ecology or its successor agency, for up to one year based on reasonable factors.

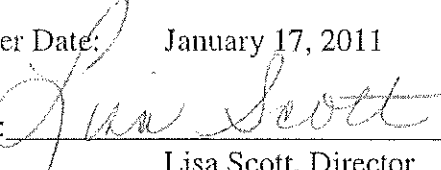
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This permit shall be rescinded pursuant to RCW 90.58.140(7) in the event the permittee fails to comply with the terms or conditions thereof.

Construction pursuant to this permit shall not begin or is not authorized until 21 days from the date of filing this local government final order with the regional office of the Department of Ecology and the Attorney General, and until all review proceedings initiated within 21 days from the date of such filing have terminated.

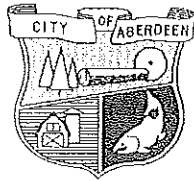
Final Order Date: January 17, 2011

Signature: _____


Lisa Scott, Director
Community Development Department
City of Aberdeen
State of Washington

TRANSMITTED to the parties listed hereafter:

Mike Cotton, Washington State Department of Transportation
Scott White, Applicant's Representative
Rick Mraz, Washington State Department of Ecology
Terry Swanson, Washington State Department of Ecology
Bobb Nolan, Washington State Department of Ecology
Jack Kennedy, U.S. Army Corps of Engineers
Bill Rehe, Washington State Department of Fish & Wildlife
Emily Teachout, U.S. Fish and Wildlife
Ryan McReynolds, U.S. Fish and Wildlife
Mike Lisitza, National Marine Fisheries Service
Washington State Office of Attorney General
File VSSD No. 207



**SHORELINES HEARING BOARD
PUBLIC HEARING
MINUTES
JANUARY 11, 2011**

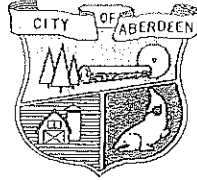
Acting Chairman Bill Privatsky called the meeting of the Aberdeen Shorelines Hearing Board to order at 7:00 p.m. in the City of Aberdeen Council Chambers located on the 3rd floor of City Hall. Bill Privatsky and Gary Buckman were both in attendance. Chairman Brian Little came in after to initial meeting was called to order and resumed the meeting as Chair. All board members were in attendance. City staff Lisa Scott was present, Council Members Jim Cook and Kathi Hoder were are present as well as the applicant's, Scott White, Jesse Halsted and David Davies.

Chairman Brian Little opened the public hearing for Shoreline Substantial Development Permit with Variance No. 2010-207; the request by the Washington State Department of Transportation to allow for the construction of a casting basin facility that can accommodate the construction of multiple pontoons at one time. Lisa Scott submitted the application for the record with the recommendation to issue the Shoreline Substantial Development Permit with Variance and conditions. Staff also asked that the application be amended to reflect that the actual height of the tallest crane would be approximately 270 not 240 feet. There was one piece of correspondence regarding this application from an adjacent business which was attached to the staff report. Chairman Little requested comments from the applicant. Scott White, the applicant's representative, gave a brief presentation and power point on the project. Chairman Little requested comments from those who were in favor of or against the application. No one was present that spoke on the record. *Board Questions:* Chairman Little inquired as to why it was necessary for the cranes to be so tall and at various heights. It was explained that in order for the cranes to work together they need to be able to move around the site without impacting other cranes. The various heights of the cranes are necessary to move heavy equipment, fish handling box and the gate. Chairman Little inquired whether or not, at the end of the project, the cranes would remain in place or be removed. The contractor is responsible for the cranes and it is very likely that they would be removed after the contract was complete at the site. *Board Deliberations:* Chairman Little wanted the record to reflect that the Variance height would be allowed to remain with the site, not just this project, so that any additional contractors that may use the site are allowed to replace the cranes with different ones, so long as the tallest of the cranes would not be above 270 feet. There were no additional comments from the board. Bill made a motion to approve The staff report's recommended *Findings of Fact, Recommended Conclusions and Recommended Conditions of Approval for case #2010-207* as amended. The motion was seconded by Gary with all in favor. Bill made a motion to approve the Shoreline Substantial Development with Variance application #2010-207 as amended. The motion was seconded by Gary with all in favor. Chairman Little closed the case for VSSD 2010-207.

A motion was made by Brian Little and seconded by Bill Privatsky to adjourn the meeting with all in favor.



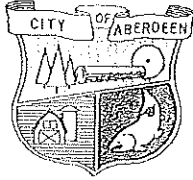
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**SHORELINE HEARINGS BOARD
PUBLIC HEARING
AGENDA FOR
JANUARY 11, 2011**

- I. Role Call, 7:00 p.m.
- II. Public Hearing for a Shoreline Substantial Development Permit with Variance, Application No. 2011-207
 - A. Staff presentation of report and findings.
 - B. Applicant presentation
 - C. Comments from those in favor of the request
 - D. Comments from those opposed to the request
 - E. Board Questions
 - F. Board Deliberations
 - G. Board Vote
 - H. Close
- III. Adjourn.



**SHORELINE HEARINGS BOARD
APPLICATION FOR A SUBSTANTIAL DEVELOPMENT PERMIT
WITH A VARIANCE AND CRITICAL AREA REVIEW**

**STAFF REPORT
Report #2010-207**

Project Description: The Washington State Department of Transportation (WSDOT) has submitted an application for a Shoreline Substantial Development Permit and Variance for the proposed Pontoon Construction Project in Aberdeen. The State Route (SR) 520 Pontoon Construction Project proposed to build a casting basin facility that can accommodate the construction of multiple pontoons at one time. The project would expedite the construction of replacement pontoons for the SR 520 Evergreen Point Bridge. The pontoons would be stored in the event they are needed for catastrophic failure response or until they can be incorporated into the planned bridge replacement.

The Evergreen Point Bridge is a critical component of Puget Sound region's transportation infrastructure. Should the bridge fail as a result of a catastrophic event, the economic and regional mobility consequences would be severe. Having pontoons constructed, stored and ready for quick deployment would reduce closure time of the Evergreen Point Bridge by up to 3.5 years. This project could also provide WSDOT long-term access to the proposed facility to build pontoons for future WSDOT floating bridge repairs or replacement, when the need arises.

The Final Environmental Impact Statement (EIS) evaluated two build alternatives and one No Build Alternative. The Aberdeen Log Yard Alternative was been identified as FHWA's and WSDOT's Preferred Alternative.

Applicant: Washington State Department of Transportation, 600 Stewart Street, Suite 520, Seattle, WA 98101-Mike Cotton.

Location of Proposal and Subject Property Information: The subject property is zoned Industrial and is located along the Chehalis River between the City of Aberdeen's Wastewater Treatment Plant and the Port of Grays Harbor's Terminal 4. The property is approximately 55± acres and is located at the south end of Division Street and directly to the east of East Terminal Way in Aberdeen and has a street address

of 1301 West Heron Street. The subject site is located in the NW ¼ of Section 17, Township 17N, Range 9W, bears the parcel numbers 0299029999101, 029901800406 and 029901800401. The latitude of the property is 46°57.7944 and the longitude of the site is 123°49.5894.

Background: WSDOT maintains four floating bridges in Washington that are built on large concrete pontoons. One of these bridges, SR520 Evergreen Point Bridge, has been damaged by past windstorms and is vulnerable to catastrophic failure. This bridge is a critical component of the Puget Sound region's transportation infrastructure and the consequences of bridge failure would be severe for the region's mobility and economy. Having new pontoon available for an emergency bridge replacement would allow WSDOT to quickly restore mobility in the SR 520 corridor across Lake Washington. WSDOT has identified the availability of new pontoons as the most time-critical element of replacing the bridge in the event of a catastrophic failure. WSDOT is proposing to expedite the construction of pontoons by building a new casting basin facility large enough to accommodate the construction of multiple pontoons at one time, having pontoons ready should a bridge replacement be necessary.

Public Notification: The notice of application was mailed to all recorded property owners within 300 feet of the subject property; it was posted at city hall as was published in the legal section of the Daily World. To date no correspondence has been received.

RECOMMENDED FINDINGS OF FACT

1. APPLICATION

The Washington State Department of Transportation filed an application for a Shoreline Substantial Development Permit with Variance on November 15, 2010, along with a Critical Area Review. The City deemed the application complete and published a notice of application for Shoreline Substantial Development Permit with Variance and Critical Area Review in the Legal Section of the Daily World.

WSDOT is applying for a Shoreline Substantial Development permit. The project requires water access. The pontoons are too large to transport on land and water is the only viable method available. They must be transported via water to Lake Washington. Direct access to water allows for the pontoons to be launched, tested for water-tightness and potentially moored in Grays Harbor until they are needed for potential bridge emergency repair or future replacement.

WSDOT is also applying for a Variance during this process because height limitations in the shoreline are only thirty-five (35) feet. A Variance is requested from the height limitation for four (4) rail mounted tower cranes that would be up to 240 feet tall and used to move materials, the casting basin gate and the fish handling box around the site.

The Project site contains Critical Areas as identified in Aberdeen Municipal Code Chapter 14.100 including Wetland Areas, Geologically Hazardous Areas and Fish and Wildlife Habitat Conservation Areas. WSDOT is applying for a Reasonable Use Exception due to unavoidable impacts to wetlands on the site. The Project meets the reasonable use exception review criteria.

2. SITE DESCRIPTION

The subject property is zoned Industrial and is located along the Chehalis River between the City of Aberdeen's Wastewater Treatment Plant and the Port of Grays Harbor's Terminal 4. The property is approximately 55± acres and is located at the south end of Division Street and directly to the east of East Terminal Way in Aberdeen and has a street address of 1301 West Heron Street. The subject site is located in the NW ¼ of Section 17, Township 17N, Range 9W, bears the parcel numbers 0299029999101, 029901800406 and 029901800401. The latitude of the property is 46°57.7944 and the longitude of the site is 123°49.5894.

Properties surrounding the site area zoned industrial and are used for industrial purposes. There are a few residential structures within the industrial zone, which have been grandfathered in.

3. ENVIRONMENTAL REVIEW

The Federal Highway Administration (FHWA) is the National Environmental Policy Act (NEPA) Lead Agency and WSDOT is the SEPA Lead Agency. A NEPA Draft Environmental Impact Statement (DEIS) was published in May of 2010. The final EIS was published in December of 2010 as well as the Record of Decision.

4. PUBLIC NOTIFICATION

Notice of application was published in the Legal Section of the Daily World on Friday, December 10, 2010 and again on Friday, December 17, 2010. Notice of public hearing was published on Sunday, December 19, 2010. The public notice was also mailed to all property owners of record within a radius of 300 feet of the exterior boundaries of the subject property on December 15, 2010. To date no correspondence has been received at the city. Notice of the NEPA Draft EIS was published on May 28, 2010 and the Final EIS in December 2010.

5. FLOOD ZONE DESIGNATION

The property is located in flood Zone C per FEMA FIRM, Panel 3 of 4, Community-Panel Number 530058 0003B, July 16, 1984. Zone C is an area of minimal flooding. The Launch Channel is located in Zone A2.

6. CODE AND POLICY CONSIDERATIONS

Ordinance 5181 created the Shoreline Management Master Program AMC Chapter 16.20 on June 19, 1974 with the conjunctive use of WAC Chapter 173-27 in the administration of the shoreline management permit system. Ordinance 5857 adopted the Grays Harbor Estuary Management Plan (GHEMP) as an amendment to the Shoreline Master Program on December 2, 1987.

The following Shoreline Management Master Program code sections are relevant in the review of this application:

1. **AMC Chapter 16.20.030 Definitions.** As used in this Ordinance, unless context requires otherwise, the following definitions will apply: **a. Shorelines of Statewide Significance** means the following shorelines of the city; Those natural rivers or segments thereof of the Cascade range downstream of a point where the mean annual flow is measured at one thousand cubic feet per second or more and all associated wetlands; **b. Development** means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel or minerals; bulk heading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the water overlying lands subject to this chapter at any state of water level; **c. Substantial Development** means any development of which the total cost or fair market value exceeds (WAC) Threshold), or any development which materially interferes with the normal public use of the water or shorelines of the city...; and **d. Structure** means anything constructed in the ground, or anything erected which required location on the ground or water, or is attached to something having location on or in the ground, but not including unroofed paved areas.

PLEASE NOTE: This proposed project is adjacent to and within 200 feet of the Chehalis River, which is a "Shoreline of Statewide Significance". This project also includes major industrial development including, but not limited to construction of structures, dredging, dumping, filling, removal of materials, bulk heading, driving of pilings, placing materials in the water.

2. **AMC Chapter 16.20.060 Siting Regulations.** This section regulates site selection for the various kinds of land and water uses, and is primarily intended to preserve shorelines for those uses which are more in need of shoreline sites than those which are not. Within the confines of the specific Environmental Regulations found in Section 140, the following uses are deemed as permitted uses for shorelines. All other uses, as specified herein, may be considered as conditional uses.

TABLE ONE
PERMITTED SHORELINE USES

Residences; parks (public and private); public access areas, routes and devices; hotels, motels, condominium; restaurants, taverns; docks, piers and other water/land connectors; water control devices and structures; water-related commercial uses; on premises outdoor advertising; marinas and boat basins; shipyards and other watercraft industries; port facilities; water-related industries; aquaculture uses and structures; agriculture; fishing and other water sports; mobile home parks; watercraft of all kinds, necessary bridges; log storage; public utilities; bulkheads and other protective devices as part of another use or for protection of uplands; dredging and mineral extraction; parking lots for vista purposes only and pollution control facilities.

TABLE TWO
CONDITIONAL SHORELINE USES

Parking lots, non-vista; non-water related industry; non-water related commercial uses; landfills; solid waste disposal; off-premises outdoor advertising, wood waste landfills and timber harvesting and management.

PLEASE NOTE: *This project is considered a permitted shoreline use, because it is a water-related industry.*

3. AMC Chapter 16.20.070 Design Regulations. This section applies to the site design of shoreline developments. The design of buildings themselves is not regulated except by virtue of the site design constraints herein.
 - a. Those aspects of a shoreline use which do not need to locate near the shoreline (incidental off-street parking, accessory buildings, storage areas, etc.) shall be located as far upland from the shorelines as site utilization requirements permit.

PLEASE NOTE: *Off street parking, accessory buildings and storage areas are located to the North of the property, as far from the Chehalis River as site constraints allow for.*

- b. No structure that would significantly interfere with the passage of stream waters or floodwaters will be permitted except when the blocking of such passage is specifically intended and authorized by permit.

PLEASE NOTE: Pilings will be placed in the water that could be considered as interfering with the passage of stream or floodwaters, but this action is specifically intended and authorized by the permit.

- c. When no bulkheads or other protective structures are required or intended, the water's edge shall be kept or restored to its natural contour, shape and appearance.

PLEASE NOTE: Other than the launch channel area, the shoreline will be kept to its natural contour, shape and appearance.

- d. In large developments, public access rights-of-way and improvements will be required if the shoreline or waters to be given access are of an appropriate nature and can withstand the access. Access will be restricted if the development could pose a hazard by its very nature, such as a sewage treatment plant or shipyard.

PLEASE NOTE: Public access will not be a required element for this project. The very nature of the project would create a public hazard. Less than a 1/2 mile from the site is a public access area known as the 28th Street Boat Launch, which provides a viewing tower, public boat launch and temporary dock space.

- e. All bridges and other water-crossing structures shall be designed to not impede the normal annual high water flow. Bridge approaches and side slopes shall be stabilized. Bridges, water control devices and structures, dredging, vista points, log rafting and storage and similar uses which require location under, on or above water shall be located and designed to minimize interference with navigation and visual amenity.

PLEASE NOTE: Water control devices, structures and dredging areas have been designed to minimize interference with navigation on the Chehalis River.

- f. Where property has been previously impacted or disturbed by man, and a part not so disturbed; then, where reasonable, new development shall occur on the previously disturbed section of property.

PLEASE NOTE: The entire site once housed a lumber mill and has most recently been used for log storage. The entire site at one time or another has been disturbed by man.

- g. Streets not intended for stream crossing approaches shall be kept as far upland of the stream edges as reasonably possible.

PLEASE NOTE: All structures that are not necessary for water access have been designed as far from the Chehalis River as possible.

h. Sign Regulations.

1. In all environments public safety signs and signs not exceeding two square feet posted to warn against hunting, fishing, trespassing and hazards are permitted.
2. In the urban environment, the following signs shall be permitted:
 - a. A residential nameplate, which may be indirectly lighted, bearing the name of the occupant and not exceeding two square feet in area;
 - b. Identifying sign and/or bulletin board for a church, school, or other public or semi-public institution, which may be indirectly lighted, not exceeding sixteen (16) square feet in area and located on the premises;
 - c. No more than two signs advertising a residential or recreational development, located on the premises thereof, un-illuminated and not exceeding thirty-two (32) square feet in area each;
 - d. Un-illuminated signs not exceeding a total of six square feet, and not more than two in number pertaining to the sale or lease of a residential dwelling or lot and un-illuminated signs not exceeding thirty-two (32) square feet and not more than two in number pertaining to the sale or lease of a commercial or industrial building or lot.
3. Appurtenant signs for uses other than those above and non-appurtenant signs approved as conditional use shall comply with the following regulations:
 - a. The total advertising area permitted to face any abutting street for any parcel of land shall be three hundred (300) square feet plus an additional one-half square foot of that street frontage in excess of fifty (50) feet. Advertising area devoted to non-appurtenant signs shall be subtracted from the total permitted advertising area;
 - b. The total advertising area permitted to face any abutting shoreline shall be one-half square foot for each foot of shoreline frontage;
 - c. No sign shall exceed fifty (50) feet in height;
 - d. No individual sign or composite of symbols or letters shall exceed three hundred (300) square feet in area;
 - e. Signs projecting over public rights-of-way shall not exceed one hundred (100) square feet in area; shall not project more than ten feet or closer than two feet to the edge of the traveled way, whichever is the lesser; shall not rotate; and shall not be closer than ten feet to the

- ground or sidewalk unless attached to the underside of a projecting canopy, in which case the sign shall not be more than six square feet in area and shall not be closer than eight feet to the ground or sidewalk;
- f. Plans for (i) projecting signs, excluding canopy signs, or (ii) any free standing sign more than twenty (20) feet high, shall be signed by a registered engineer;
 - g. Appurtenant and non-appurtenant signs may be illuminated subject to the following conditions. No individual lighting unit or group of units shall exceed in intensity by more than twenty-five (25) percent any other lighting unit or group of units within the same advertising area. A lighting effect which involves turning on and off a lighting unit or group of units shall be in the "on" phase for at least one second and in the "off" phase for at least one second. A lighting effect involving a random pattern of individual units turning on and off shall be permitted; provided, that 1 and 2 point flashers shall not be permitted;
 - h. Pennants, ribbons, streamers, spinners, strings of light bulbs and similar devices are not permitted unless they are incorporated in the advertising area of a sign.

PLEASE NOTE: All sign requirements through the SMP and the AMC will be met and maintained.

- i. Docks, piers and other water-land connectors shall comply with the following:
 - 1. Where harbor lines have been designated, docks, piers and other water-land connectors shall be located shoreward of the outer harbor line;
 - 2. Where harbor lines do not apply docks, piers and other water-land connectors shall project the minimum distance necessary to service the appurtenant vessels and shall not create a hazard to navigation;
 - 3. Individually owned, single-resident type piers, boat docks, floats, platforms and similar moorage facilities are permitted where it can be shown that a joint use moorage facility is not feasible;
 - 4. Joint use moorage facility shall be required for residential developments, recreation developments, and commercial developments.
 - 5. Bulkheads, landfills and marinas shall be planned and designed in conformance with the criteria of the Washington State Department of Fisheries in Chapter 2.48.148 of the Washington Administrative Code. Bulkheads and landfills shall be located shoreward of the inter harbor line or the ordinary high water line in the urban environment; provided, that priority should be given to landfill for water dependent and water related uses.

PLEASE NOTE: This project has been designed to avoid hazards to the navigation channel. A launch channel will be dug through a portion of the mudflats adjacent to the site. The launch channel will be defined with pilings and rip-rap. When the pontoons are ready to be launched, the applicant will

work with all the necessary parties to schedule a time that has the least amount of impact on fisheries and vessel traffic.

- j. Minimum Lot and Water Frontage.
 - 1. The minimum lot size in the urban environment shall be five thousand (5,000) square feet except in planned unit residential developments and condominiums and in commercial and industrial zones where lot sizes shall conform to the zoning ordinance.
 - 2. Any lot established after the adoption of this chapter which is within one hundred (100) feet of a shoreline shall have at least twenty (20) feet of frontage on the shoreline, or an equivalent area lying between the parcel and the shoreline shall be available for access by lot owners to the shoreline. This requirement may be waived if the wetland is sufficiently fragile or hazardous as to make such access undesirable.
 - 3. The average width of a lot in the urban environment shall be at least fifty (50) feet, subject to the exception as stated in subsection (K)(1) of this section. (Prior code § 11.08.070)

PLEASE NOTE: The project site complies with all aspects of this section.

- 4. **AMC Chapter 16.20.080 Earthchanging Regulations.** This section applies to all acts which alter the existing or natural contour of the land, wetland or bottomland. Such acts as mining, dredging, land clearing, grading, roadbuilding, landfilling and the like. Land, wetland and bottomland shall be termed "land" for this section.

- A. Land shall be restored to a natural contour after mining.
- B. Protection from siltation and erosion shall be provided for all earthchanging acts.
- C. Where landfill does occur, the fill material used shall be such that the leachate resulting from it will cause no more serious a degradation in water quality than naturally occurring leachate from surrounding lands.
- D. Earth changes shall not interfere with free passage of stream and flood waters except where such is specifically intended and authorized. (Prior code § 11.08.080)

PLEASE NOTE: Proper environmental precautions will be taken when dredging, removing fill and creating a berm on site.

- 5. **AMC Chapter 16.20.090 Public Access.**

- A. Provision of public access to appropriate waters is a goal of this master program, and, while the acquisition, development and maintenance of public access facilities is the duty of government, any development which would have the effect of substantially increasing the demand for public access to a

particular body of water shall have responsibility of providing government with appropriate areas of land to allow government to discharge its duties. Should the administrator find that a particular form of development or a particular proposal will substantially increase the demand, such finding shall be substantiated with appropriate data and recorded in the office of the administrator.

1. Projects of which public access dedications are required may satisfy the requirements in any way seen to be appropriate, and harmonious with the project itself.
 2. All methods of satisfying public access requirements shall involve the dedication of lands, whether strips along the shoreline, access road right-of-way, or other useable dedications. Developers are not required by these regulations to improve the dedicated parcels of land other than the survey of such parcels which is a necessary part of any dedication of lands to be the public. However, this shall not preclude local government from requiring improvements on dedicated parcels as a condition for development.
 3. The administrator may exempt certain projects from the public access requirement on the basis of size of the projects, or if the government already owns a sufficient amount of appropriate land to meet the public access needs.
 4. For all projects, the administrator shall examine the possibility of requiring public access dedications and shall make record of his findings in each case.
 5. It is intended that the public access dedications of the project be commensurate with:
 - a. The size of the project;
 - b. The shoreline frontage of the project;
 - c. The characteristics and limitations of the body of water involved;
 - d. The expected demand resulting from the project;
 - e. The existing access facilities;
 - f. The design of the project;
 - g. The existing street pattern;
 - h. The type of access to be given, whether actual, scenic, boat, swimming or other type.
- B. Since each project will have differing characteristics, no attempt will be made in these regulations to standardize public access requirements in terms of amounts of land or dimensions; however, the administrator shall see that each of the above matters relative to public access is considered in the project proposal. (Prior code § 11.08.090)

PLEASE NOTE: Public access will not be a required element for this project.

The very nature of the project would create a public hazard. Less than a ½ mile from the site is a public access area known as the 28th Street Boat Launch, which provides a viewing tower, public boat launch and temporary dock space.

6. **AMC Chapter 16.20.100 Restoration.**

- A. Restoration of shoreline areas shall mean either returning the area to its natural state, or cleaning up the area to remove litter, debris, abandoned structures, pilings to present a neat and tidy appearance. Restoration of the first type is expected only after a use of structure is to be discontinued or removed such as gravel mines or temporary structures, and then only where the area is not to be turned to other uses or structures.
- B. Restoration of the second type shall occur with or at the completion of all developments. No specific standards are imposed in these regulations as to the degree of tidiness or what specific actions such restoration might require since the characteristics of each development or project will differ.
- C. However, every substantial development permit will contain the administrator's findings concerning restoration. Such findings will include a statement as to whether restorative actions will be required for the project at all, and if such actions are needed, the details of each shall be spelled out on the permit. (Prior code § 11.08.100)

PLEASE NOTE: After building all the pontoons planned for this project, WSDOT would retain ownership of the casting basin facility until it is determined whether the facility would be needed for constructing the additional pontoons needed as part of the proposed SR 520, I-5 to Medina: Bridge Replacement and HOV Project, which would require more pontoons than the proposed SR520 Pontoon Construction Project would provide. When the facility is no longer needed to build Evergreen Point Bridge pontoons, WSDOT would maintain the facility-adhering to applicable environmental regulations-until decisions are made about the facility's future. WSDOT might reopen the facility for currently unforeseen WSDOT projects, sell the property with the improvements, or decommission the facility and restore the site to as close to its condition before this project as possible before, selling it.

WSDOT has identified two points in time when a decision about the future use of the casting basin facility could potentially be made: (1) when the SR 520 Pontoon Construction Project is completed, and (2) if and when the decision is made to use the facility to build pontoons for the proposed SR 520, I-5 to Medina: Bridge Replacement and HOV Project, at the end of the pontoon construction for that project. Further use or decommissioning of the site would

be a separate action that would require its own environmental process, permits, approvals and consultation with agencies and interested tribes.

7. AMC Chapter 16.20.110 Scenic view and vista regulations.

- A. All applications for substantial development permits must be evaluated for possible detrimental effects on scenic views and vistas. The possible blocking of residential views will be examined. Disruption of scenic vistas will be examined. If some detrimental effects on views or vistas are determined to be the case, the administrator shall make record of the case and place conditions on the permit so as to minimize said detrimental effect. Such conditions may include, but are not limited to:
 - 1. Limitations of height of structures, as per RCW 901.58.320;
 - 2. Requirements for screening;
 - 3. Requirements for underground utilities;
 - 4. Requirements regarding outdoor advertising, decoration and lighting;
 - 5. Restoration requirements;
 - 6. Requirements for retention of appropriate vegetation.
- B. Should the administrator determine that there will be no adverse effect on scenic views or vistas, such determination will be noted.
- C. Should a particular project be so disruptive of scenic views and vistas that no amount of special requirements will ease the disruption, then the application may be denied, if the project could reasonably be located elsewhere. (Prior code § 11.08.110)

PLEASE NOTE: During construction of the casting basin heavy equipment and construction-related signage would be visible at and near the project site. During pontoon-building operations there would be low to no visual effects during daylight hours. Nighttime illumination on the facility would cause it to be visible from many locations in the area. Visibility of cranes and potentially the batch plant, would be unavoidable for some residents in the hillside residential areas.

8. AMC Chapter 16.20.120 Valuable site and structure protection regulations.

These regulations are designed to protect sites and structures seen to have historic, education, cultural, scientific or archaeological value.

- A. Where alternative sites can be used, a site or structure recognized as valuable will not be disturbed.
- B. After finding of fact, the legislative body will determine if a site or structure is to be recognized as valuable.
- C. The state of Washington may also declare a site or structure to be valuable.

D. If there should be an attempt to destroy a valuable site or structure, or potentially valuable site or structure which, is yet unrecognized, persons wishing to prevent such destruction may attempt to do so by filing objection with the permit authority. Denial of a permit which would result in destruction shall be based only upon:

1. Other alternatives are economically available to the applicant; or
2. Objection parties have made a bona fide offer which results in no economic loss to the applicant, by means of an offer to acquire the site or structure, or similar means. (Prior code § 11.08.120)

PLEASE NOTE: Although the historical lumber mill and its various supporting structures were demolished in the 1960's, several of the more substantial foundations remain below the surface of the Aberdeen Log Yard site. Archaeological investigations uncovered the foundations of the boiler and engine rooms and the waste burner. However, WSDOT (on behalf of FHWA) has determined that this historic property is not eligible for the NRHP. FHWA and WSDOT submitted this determination to DAHP and received DAHP'S concurrence on this finding.

Two residential houses were evaluated as historic properties eligible for the NRHP because of their association with the development of residential architecture west of Aberdeen's central business district from the 1900's through the 1920's. They are located within the APE west of Aberdeen's central business district along the designated haul routes at 201 South Washington Street and 1101 West Wishkah Street.

9. AMC Chapter 16.20.140 Urban Regulations.

- A. Purpose. The urban environment is intended for the most intensive human use of the shoreline. All forms of human development and activity which make use of shoreline areas are appropriate for the urban environment.
- B. Uses. All uses listed as permitted in Section 16.20.060 are permissible outright in the urban environment. Conditional uses, as specified in Section 16.20.060, are permissible, subject to the obtaining of a conditional use permit. (Prior code § 11.08.140)

PLEASE NOTE: The SMP allows for water-related industries as a permitted use. The Industrial Zone in the AMC permits industrial activities. The GHEMP, Management Unit 15, Planning Area III indicates that this area represents the prime remaining area for large industrial expansion in

immediate proximity to the navigation channel, land-based transportation facilities, other urban facilities and a local labor force. This planning area also notes that in the eastern portion of the planning area, which this property is located, the bankline will continue to be highly altered. This is the central area for major economic expansion in the Grays Harbor Region. As such, use of the land and water areas will be primarily for heavy industry directly related to the region's primary economy.

10. AMC Chapter 16.20.200 Variance.

- A. It is understood that these regulations may cause unnecessary hardships in particular situations, or that these regulations might be unreasonable in light of new evidence, technology or other special circumstances, and that the goals and policies of the master program may not necessarily be served by the strict application of these regulations. Therefore, when a person feels that such special conditions apply to him, he can request a variance from these regulations.
- B. The variance procedure is the same as the substantial development procedure, and it is intended that an applicant may make a joint application for a particular project, as he would have to in most cases anyway, and for variance to any of these regulations which he deems unreasonable, or provoke an unnecessary hardship in his case. Should a conditional use also be applied for, then all three actions: (a) substantial development, (b) conditional use, and (c) variance, may be applied for in the same application.
- C. In addition to other material required in the application, the applicant must identify each of the provisions in this chapter that he wishes a variance for. Further, the applicant must supply evidence, information and his rationale for each variance sought. This additional material must be, at least from the viewpoint of the applicant, sufficient to satisfy the hearing board that:
 - 1. The hardship which serves as basis for granting a variance is specifically related to the property of the applicant;
 - 2. The hardship results from the application of the requirements of the Act and master program and not from, for example, deed restrictions or the applicant's own actions;
 - 3. The variance granted will be in harmony with the general purpose and intent of the master program;
 - 4. The public welfare and interest will preserve; if more harm will be done to the area by granting the variance than would be one to the applicant by denying it, the variance will be denied.
- D. Failure to satisfy any one of the above will result in denial of the variance. The medium of variance is to be used only for the relaxation of these regulations as they apply to a permitted use, or in conjunction with an applicant for a conditional use.

E. The remainder of the variance procedure is identical to that for a conditional use, including the requirement for a public hearing. (Prior code § 11.08.200)

PLEASE NOTE: The applicant is applying for a variance for the proposed height of the four (4) tower cranes.

7. REVIEW CRITERIA FOR SHORELINES PERMITS

WAC Chapter 173-27-170 Review Criteria for Variance Permits. The purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in the applicable master program where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the master program will impose unnecessary hardships on the applicant or thwart policies set forth in RCW Chapter 90.58.020.

- (1) Variance permits should be granted in circumstances where denial of the permit would result in the thwarting of the policy enumerated in RCW Chapter 90.58.020. In all instances, the applicant must demonstrate that extraordinary circumstances shall be shown and the public interest shall suffer no detrimental effect.
- (2) Variance permits for development and/or uses that will be located landward of the ordinary high water mark (OHWM), as defined in RCW Chapter 90.58.030(2)(b), and/or landward of any wetland as defined in RCW Chapter 90.58.030(2)(h), may be authorized provided the applicant can demonstrate all of the following:
 - (a) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with, reasonable use of the property;
 - (b) That the hardship described in (a) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restriction or the applicant's own actions;
 - (c) That the design of the project is compatible with other authorized uses in the area and with the uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline environment;
 - (d) That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
 - (e) That the variance requested is the minimum necessary to afford relief; and
 - (f) That the public interest will suffer no substantial detrimental effect...

PLEASE NOTE: RCW Chapter 90.58.020 established a state policy for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy is administered through the use of WAC Chapter 197-27.

8. CRITICAL AREAS ORDINANCE COMPLIANCE

The proposed development was reviewed for consistency with the City of Aberdeen Critical Areas Ordinance. The project site contains critical areas as identified in AMC Chapter 14.100 including wetland areas, geologically hazardous areas and fish and wildlife habitat conservation areas. WSDOT is applying for a Reasonable Use Exception.

9. GRAYS HARBOR ESTUARY MANAGEMENT PLAN

The following Grays Harbor Estuary Management Plan policies are relevant to the review of this application:

APPROPRIATE/INAPPROPRIATE USE. Designated on the Standard Use table, a use is considered appropriate or inappropriate based on the stated purpose of the applicable Management Categories.

Designation of an *appropriate use* indicates that in most cases where the Management Category is used, the use will be appropriate. It does not mean that it will always be appropriate in specific management units. The Allowable Activities table, Management Unit Objectives and Special Conditions will ultimately determine whether or not a use can be accommodated in specific management units.

Designation of uses that may be *appropriate* within the Management Categories indicates that the individual circumstances of specific management units will determine whether or not uses so designated can be accommodated.

Uses designated *inappropriate* are considered inconsistent with the general purpose of designated Management Categories and generally will not be allowed.

MANAGEMENT UNIT. This property is located within Management Unit 15, Planning Area III. The management category is Urban Development (UD). The eastern boundary is the extension of Michigan Street to the Shoreline, the western boundary is Management Unit 14, Adams Street and the northern boundary is the Burlington Northern Railroad line.

This area will serve as one of the principal areas for heavy industrial expansion for the Grays Harbor region. The emphasis on use will be for water-related and dependent uses and re-development of already developed lands.

Piling and mooring dolphins are considered an allowed activity.

RECOMMENDED CONCLUSIONS

1.

The application and attachments contain sufficient information for review by the Shoreline Hearings Board and the Washington State Department of Ecology.

2.

The project, should it receive the required shoreline development approvals, will comply with all applicable city, state and federal codes and plans governing construction activities within the shoreline.

3.

Public access will not be required. Public access to this site would pose an immediate threat and danger to public safety. Public access is located less than a ½ mile from the site, to the west.

4.

The construction of the Casting Basin facility and pontoons are considered a permitted shoreline use. Because the need to transport the pontoons require water transportation, it is necessary to locate the facility on the shoreline. The State went through the required site selection process and determined that this particular site on this shoreline was the best location with the least amount of environmental impacts.

5.

The site was designed to have the least amount of impacts to the SMP design regulations. Parking, buildings, storage areas have been designated to areas of the property that are farthest from the shoreline. Special permits have been applied for which, authorize the dredging of a portion of the mudflats adjacent to the site and for placement of pilings that form the launch channel. The bankline, other than the launch channel, will be kept in its natural state.

6.

The applicant is also applying for a variance from the height limitation of thirty-five (35) feet for new structures. The proposed project would contain four rail mounted tower cranes that would be up to 240 feet tall and used to move materials, the casting basin gate and the fish handling box around the site. This proposed variance request would not be a grant of special privilege as others in the area have exceeded the minimum height in the shoreline. Neighboring AGP has structures currently under construction that will be over 300 feet in height. A hardship will be created; However, by the failure to obtain the requested variance from the 35 foot height restriction, which would be attributable to the application of the city's SMP requirements and not as a result of unplanned actions by the applicant. Should the variance not be granted, such a denial would significantly interfere with the reasonable use of this property, as defined in WAC Chapter 173-27-170 and what has already been established in the vicinity.

7.

The city will not require restorative action for this project at the end of this permitted project. Because of the unknown future of the site and the potential for other pontoon

projects though un-permitted, it would be unwise of the city to require complete restoration of the site at the completion of this first phase of the project. We concur with WSDOT's conclusions regarding the future of the site and the city will agree to work with WSDOT to either, continue use of the site for pontoon construction, sell the site and the improvements or restore the site to as close to its original condition before selling it.

8.

The proposed project, for the most part, will not create an adverse effect on scenic views and vistas, as the surrounding properties are industrial in nature. There are a few neighboring houses located in the industrial area. These houses are buffered from the site by large trees, industrial businesses and the railroad. They have a very limited view if any from their location. Visibility of the cranes and potentially the batch plat would be unavoidable for some residences in the hillside residential areas.

9.

The applicant has applied for a reasonable use exception to the CAO. The site is currently zoned for industrial uses. The application contains appropriate mitigation measures that make up for the disturbances to the wetland areas, geologically hazardous areas and fish and wildlife habitat conservation areas. Due to the location and the pre-existence of the small wetlands across the site an appropriately sized industrial development could not be located on the site without impacting wetlands. Therefore strict protection of the wetlands in conformance with Chapter 14.100 would prohibit development of the site. Any industrial development would impact these wetlands due to their location and the size of the site. The proposed project has been designed to minimize impact to wetlands and waterbodies around the edge of the site. Impacts to the interior site wetlands were unavoidable. 1.04 acres of Palustrine wetlands and 0.50 acres of Estuarine Wetlands have been identified on site, of which only 1.10 acres are proposed to be filled for development. Approximately 2.87 acres of mudflats are proposed to be dredged to make room in the launch channel for pontoon movement to the shipping lane in the Chehalis River. These wetlands are mudflats are proposed to be mitigated through a separate shoreline permit action at Grays Harbor County. The proposed mitigation site

is at Grass Creek and has been designed to meet all mitigation requirements for this project.

Impacts to Critical Areas have been minimized to the maximum extent practicable and all remaining impacts to Critical Areas will be mitigated in conformance with the standards of the Chapter. The project will be constructed to industry standards and all environmental impacts including water quality will be compliant with regulatory standards. The project does not pose a threat to public health, safety or welfare. The project will mitigate for the loss of critical area functions and values as detailed in the Conceptual Wetland and Aquatic Resources Mitigation Report. The project will also have an impact to Fish and Wildlife Habitat Conservation Areas along the shoreline. This impact is allowed under AMC Chapter 14.100.530(k) for shoreline dependent uses. The proposed project, which has impacts to Habitat Areas, has been designed to minimize all unavoidable impacts. The project has also complied with the requirements of the Geological Hazards of the site, which include Liquefaction and Landslide areas and Seismic and Shaking Potential. A Geotechnical Report was prepared for the site, which take into account and provide for these Geological Hazard Areas.

10.

The granting of the variance is consistent with the general purpose and intent of the SMP, the City's Comprehensive Plan and the Grays Harbor Estuary Management Plan, as the proposed land use activities are listed by all as an appropriate use in this location.

11.

The proposal is consistent with the Board's decision criteria of the Shoreline Management Master Program, with the public interest being served should the Board approve the proposal as conditioned below.

RECOMMENDED CONDITIONS OF APPROVAL

1.

All activity occurring in-water or near water shall comply with requirements as determined by the Department of Fish and Wildlife.

2.

WSDOT shall obtain all required permits from the Department of Natural Resources.

3.

WSDOT shall obtain all required permits from the U.S. Army Corps of Engineers.

4.

WSDOT shall obtain all required permits from the Department of Ecology.

5.

All activities shall be performed in compliance with OSHA Standards.

6.

WSDOT shall ensure that the contractor receive all necessary construction permits from the City of Aberdeen.

7.

WSDOT shall ensure that the contractor has appropriate methods in place to take care of all releases of oils, hydraulic fluids, fuels, other petroleum products, paints, solvents and other deleterious materials, so that they are contained and removed in a manner that will prevent their discharge to waters and soils of the state. The cleanup of spills shall take precedence over other work.

8.

WSDOT shall ensure that the contractor will employ erosion control through the use of Best Management Practices as required to prevent side casting of fill material on to

adjacent properties or into the water. All erosion and sediment control measures shall be in place prior to, during and after site improvements are completed or when control measures are no longer needed.

9.

Equipment that enters waterways shall be maintained such that no visible sheen from petroleum projects appears within waterways. If a sheen appears around the equipment in the water, the equipment shall be contained within an oil boom and shall be removed from the water, cleaned and/or maintained appropriately. If equipment leaks occur during work, WSDOT shall ensure that the contractor shall see that the equipment is immediately removed from within the waterway to a location where pollutants cannot enter any waterway. The equipment shall not be allowed within the waterway until all leaks have been corrected and the equipment cleaned. Upland area where the leaking equipment is stored is also cleaned/remediated immediately.

10.

WSDOT shall ensure that the contractor, during excavation of the mudflats, has equipment in place should any contaminated soils be released during the excavation and that proper disposal of the contaminated soils be followed.

11.

Substantial progress toward completion of this project shall be undertaken within 2 years of permit approval by the City of Aberdeen, with substantial progress including but not limited to the making of contracts, the signing of notice to proceed or the receipt of a City of Aberdeen Building Permit. The City of Aberdeen may authorize a single extension before the end of the time limit, with prior notice to parties of record and the Washington State Department of Ecology or its successor agency, for up to one year based on reasonable factors.

12.

This Shoreline Substantial Development Permit with Variance shall terminate within 5 years after the approval of the permit by the City of Aberdeen, provided that the City may authorize a single extension before the end of the time limit, with prior notice to parties of record and the Department of Ecology or its successor agency, for up to one year based on reasonable factors.

RECOMMENDATIONS

Based on the aforementioned Findings of Fact and Conclusions, City of Aberdeen staff, recommend the Aberdeen Shoreline Hearings Board, **APPROVE** Shoreline Substantial Development Permit with Variance Permit No. 207, as conditioned.

LS:ls: 12-29-10

Attachments

TRANSMITTED to the parties listed hereafter:

Aberdeen Shoreline Hearings Board
Dave Ziegler, WSDOT
Scott White, Applicant's Representative
Rick, Mraz, Washington State Department of Ecology
Eric Nelson, City of Aberdeen Corporation Counsel
Shoreline Substantial Development Permit with Variance File No. 207